IN THE HIGH COURT OF UTTARANCHAL AT NAINTAL

Writ Petition No. 487 (M/S) of 2001

(Old No. 30038 of 1995)

Sri Sher Chand S/o Sri Karam Chand.
Resident of Village Dhimar Khera.
Tehsil Gadarpur, District- Nainital. .... Petitioner

Vs

1. The II Additional District, Judge, Nainital.
2. The Prescribed Authority, Rudrapur, Dist- Nainital.
3. The State of U.P. through the Collector, Nainital.

.....Respondents

Sri S.K. Mandal learned counsel for the petitioner.
Sri R.C. Arya, learned Standing counsel for the respondents.

Dated: -7-9-2006

Hon'ble B.S. Verma, J.

Heard Sri S.K. Mandal learned counsel for the petitioner and Sri R.C. Arya learned Standing counsel for the State.

By way of this writ petition, the petitioner has prayed to issue a writ in the nature of certiorari for quashing the orders dated 18-2-1994 and 23-6-1995 passed by respondent Nos. 2 and 3 i.e. Prescribed Authority, Rudrapur, District Nainital and II nd Additional District Judge, Nainital respectively and it has been further prayed for quashing the notice dated 25-5-1992 passed under Section 4 (1) of the U.P. Public Premises (Eviction of Unauthorized occupants) Act, 1987

2. Brief facts of the case are that a notice under Section 4(1) of the U.P. Public Premises (Eviction of Unauthorised Occupants) Act, 1972 ***(hereinafter referred to as "the Act")*** was issued in respect of plot No.1311 and 15-Ba situated in village Dhimar Khera, Tehsil, Gadarpur, District- Nainital. Thereafter, petitioner filed objections stating therein

that the notice is wholly illegal which were rejected by the respondent No.2 Prescribed Authority on 18-2-1994.

3. Feeling, aggrieved by the aforesaid order dated 18-2-1994, the petitioner preferred an appeal No. 116 of 1994 Sri Sher Chand Vs. State before the II nd Additional District Judge, Nainital which was was dismissed vide order dt.23-6-1995.

4. Feeling aggrieved by the aforesaid orders, the petitioner preferred this petition before the Allahabad High Court, which has been transferred to this Court, for disposal after creation of new State.

5. I have heard the submissions of the learned Standing counsel appearing on behalf of the respondents –State and Sri J.C. Belwal, learned counsel for the petitioner and perused the record.

6. At the outset, it may be mentioned that this Court vide judgment delivered today i.e. on 25-5-2006 in Writ Petition No.3235 (M/S) of 2001 Krishna Kant Vs. Ist Additional District Judger Nainital and others along with 42 others writ petitions have already considered the controversy involved in the present writ petition. All the 43 writ petitions preferred by different petitioners were allowed by that common judgment and it was held that the provisions of the U.P. Public Premises (Eviction of Unauthorised Occupants) Act, 1972 were not applicable to the agricultural land and its was open to the State to proceed for eviction of the petitioners under the provisions of the U.P. Zamindari Abolitaion and Land Reforms Act/KUZA Act and other allied laws in force. It was also observed therein that the petitioners may also get their title declared by filing suit under Section 229-B of the Z.A. and L.R. Act/KUZA Act, provided they establish their stand before the Revenue Court. The learned Standing Counsel fairly conceded that the present petition is squarely covered by the said judgment.

7. In view of the fact that this Court has already decided as many as 43 similar writ petition by a common judgment today, there is no need to repeat the same material again in the case at land. The present writ

petition is fully covered by the Judgment passed in Writ Petition No. 3235 (M/S) of 2001, Krishna Kant Vs. Ist Additional District Judge, Nainital and others along with 42 other writ petitions decided by this Court on 25-5-2006 itself. This writ petition deserves to be allowed on merit in terms of the said judgment.

8. The present writ petition stands allowed in terms of the judgment passed by this Court in Writ Petition No. 3235 (M/S) of 2001, Krishna Kant Vs. Ist Additional District Judge, Nainital. No order as to costs.

(B.S. Verma, J.)

Dated: -7-9-2006
M.K.